

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Erin Wilkening,

Case No. 23-cv-3143 (DWF/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

U.S. Department of Education, Justice Department Debt Collection Services, Nelnet, Experian, Equifax, and TransUnion,

Defendants.

In an order dated November 1, 2023, this Court entered an order denying Plaintiff Erin Wilkening’s Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 3). The order gave Wilkening 21 days—that is, until November 22, 2023—to either submit a new *in forma pauperis* (“IFP”) application or pay this action’s filing fee. (*See id.* at 2–3.)

That deadline has now passed, and Wilkening has not submitted a new IFP application or any filing fee. (Indeed, since filing this action, Wilkening has not communicated with the Court at all, and the address under which she initiated this case appears to no longer be accurate. (*See Docket.*)) Accordingly, this Court now recommends dismissing this action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule

41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: November 29, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

Wilkening v. US Department of Education et al.
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NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).